

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 15 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ABDELREHIM MOHAMED KEWAN,
aka Abdel Kiwan,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent,

NORTHWEST IMMIGRANT RIGHTS
PROJECT,

Applicant - Intervenor.

No. 04-70630

Agency No. A76-489-951

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted February 10, 2006
Pasadena, California

Before: KOZINSKI, TROTT, and BEA, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Petitioner, Abdelrehim Mohamed Kewan, appeals the order of the Board of Immigration Appeals (BIA) denying his adjustment of status. We dismiss in part and deny in part Kewan's appeal.

We dismiss for lack of jurisdiction Kewan's claim that the BIA erred in denying his adjustment of status. Adjustment of status determinations are discretionary and, therefore, unreviewable pursuant to 8 U.S.C. § 1252(a)(2)(B)(i). See Romero-Torres v. Ashcroft, 327 F.3d 887, 888 (9th Cir. 2003).

We deny Kewan's remaining claim that he was denied due process of law in the conduct of his removal proceeding. While an Immigration Judge's refusal to allow an alien to present evidence in support of the alien's claim may violate due process, see Lopez-Umanzor v. Gonzales, 405 F.3d 1049, 1056-57 (9th Cir. 2005), Kewan's due process rights were not violated by the Immigration Judge's failure to inform Kewan ahead of time that she would deny relief based, in part, on doubts about the legitimacy of his marriage and his status as a battered spouse, see Matter of Bark, 14 I. & N. Dec. 237, 239-40 (BIA 1972) (Immigration Judge "must decide whether the alien qualifies for entry, irrespective of any prior determinations."), rev'd sub nom. on other grounds, Bark v. INS, 511 F.2d 1200, 1202 (9th Cir. 1975).

DISMISSED in part; DENIED in part.